

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

*IN RE CATTLE AND BEEF ANTITRUST
LITIGATION*

Case No. 0:20-cv-01319 (JRT/JFD)

This Document Relates To:

All Actions

**DECLARATION OF X. KEVIN ZHAO IN SUPPORT OF
DEFENDANTS' RESPONSES TO
PLAINTIFFS' MOTION TO COMPEL DATA AND DOCUMENTS**

I, X. Kevin Zhao, declare pursuant to 28 U.S.C. § 1746, that:

1. I am a partner with the law firm of Greene Espel PLLP, and I am an attorney representing Defendants Cargill Meat Solutions Corporation and Cargill, Incorporated (collectively herein, "Cargill") in this litigation. I submit this Declaration in support of Defendants' Responses to Plaintiffs' Motion to Compel Data and Documents. I have personal knowledge of the facts set forth below.

2. Plaintiffs have served over 150 requests for production on Defendants. Defendants have committed to produce responsive material in response to the vast majority of them including: inter-Defendant communications and meetings; communications with fed cattle producers; fed cattle and beef production and supply, including the factors bearing on such production and supply; fed cattle and beef pricing and contract terms; reports regarding cattle and beef profits, revenues, losses, and costs; trade associations; market factors and competitive conditions, including barriers to entry; compliance policies; communications with third parties regarding cattle futures; policies for purchasing and

selling futures and options; and relevant documents produced in government investigations and certain documents concerning those investigations.

3. Through meet-and-confers over Plaintiffs' requests for production, the parties (all Defendants and all Plaintiffs) agreed to define "Cattle" for purposes of discovery in this litigation as "Fed cattle, *i.e.*, steers and heifers raised on a high energy diet and fed for the production of high-quality beef products in the United States."

4. Through its offers of production and the meet-and-confer process, Cargill agreed to produce a wide scope of documents and data about its fed cattle slaughter operations. Some of those documents and data will include information about non-fed cattle. As a few examples: Cargill will produce documents (to the extent any exist) about the combination of meat from fed cattle and non-fed cattle in ground beef. Cargill will also produce detailed profit-and-loss data for its two regional plants—Fresno and Wyalusing—which process non-fed cattle. And Cargill is producing studies and reports about the beef and fed cattle markets. To the extent that those documents discuss non-fed cattle—for example, the impact of weather on fed- and non-fed cattle—Cargill will produce them.

5. Cargill has also agreed to produce documents and data regarding its case-ready beef pricing and sales, including sales of ground beef.

6. Cargill also met and conferred on multiple occasions with Plaintiffs regarding their requests for production seeking structured data. Cargill provided eight different sample reports and responded to at least four lengthy letters from Plaintiffs posing dozens of questions seeking additional information about Cargill's structured data. An example of one such letter from Plaintiffs (dated February 14, 2022) is attached as

Exhibit A (*filed under seal*). Cargill responded to that February 14 letter only to receive an even more detailed letter on April 27, 2022, which is attached as **Exhibit B** (*filed under seal*). Plaintiffs have also demanded unstructured data to help them understand the structured data that they have requested, including (for example) thousands of fed cattle procurement contracts.

7. Through the meet-and-confer process, and pursuant to Magistrate Judge Bowbeer's ruling on plant-level management custodians, Cargill has agreed to 39 total document custodians. This includes five custodians with experience specific to case-ready beef: a business lead for the case-ready business (Elizabeth Gutschenritter), a pricing specialist for case-ready beef (Cody Stuber), and three sales executives with case-ready beef within their team's portfolio (Scott Vinson, Tom Windish, and Misty High).

8. Attached as **Exhibit C** is a true and correct excerpt of the transcript of the March 18, 2022 Hearing before Magistrate Judge Bowbeer.

9. Attached as **Exhibit D** is a true and correct excerpt of the transcript of the March 24, 2022 Hearing before Magistrate Judge Bowbeer.

10. Attached as **Exhibit E** is a true and correct excerpt of the transcript of the April 1, 2022 Hearing before Magistrate Judge Bowbeer.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 4, 2022, in Minneapolis, Minnesota.

s/ X. Kevin Zhao

X. Kevin Zhao